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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,555	03/23/2004	Yonas Gizaw	9586	2561
27752 7590 03/20/2009 THE PROCTER & GAMBLE COMPANY Global Legal Department - IP Sycamore Building - 4th Floor 299 East Sixth Street CINCINNATI, OH 45202				
EXAMINER STULIL, VERA				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
03/20/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/806,555

Applicant(s)

GIZAW ET AL.

Examiner

VERA STULII

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 12, 2009 has been entered.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-8 rejected under 35 U.S.C. 103(a) as being unpatentable over Scharschmidt et al (US 3,615,677) in view of Hart (US 4,555,409).

In regard to claim 1, Scharschmidt et al (Scharschmidt) discloses a non-steeped corn blend, comprising a non-steeped non-gelatinized corn material, non-steeped pre-gelatinized corn material, calcium carbonate and wheat starch (Abstract; Col. 6, Example III; Col. 5, lines 23-25). In regard to "a non-steeped non-gelatinized corn material, non-steeped pre-gelatinized corn material" recitation in claim 1, Scharschmidt disclose "[i]n another embodiment of the invention partially pregelatinized corn flour is substituted for some or all of the ungelatinized corn flour used in the formulation" (Col. 5 lines 23-25). Regarding starch recitation in the non-steeped corn blend in claim 1, it is noted that in addition to starch being contained in corn blend material and soy flour,

Scharschmidt discloses using wheat flour (Abstract, Col. 1 lines 61-62, Col. 2 lines 17-18, Col. 3 lines 7-9, 22-23). Therefore, since Scharschmidt discloses wheat starch from cereal flour (wheat flour), then Scharschmidt discloses the particular starch as claimed.

Scharschmidt does not disclose use of calcium hydroxide as a pH increasing agent in a non-steep corn blend.

Hart discloses a method of preparation of a non-steeped corned blend that is used to produce masa-type dough product, wherein the method does not include the steeping step (Col. 1, lines 55-63; Col. 2 lines 49-55). Hart discloses production of a masa prepared by the method that completely eliminated the step of steeping corn in a lime (calcium hydroxide solution) that result in a masa that is "equally acceptable as the masa prepared by the traditional method", which Applicant's intention as well (Col. 2 lines 49-55). Hart discloses "adding calcium hydroxide for taste only of the finished product" (Col. 1, lines 62-63).

In summary, both Scharschmidt and Hart disclose preparing a food product by providing a non-steep corn blend comprising corn flour and pH adjusting agent containing calcium cations [lime (calcium hydroxide)/calcium carbonate], providing water, mixing non-steep corn blend and water, forming a dough, forming a food pieces from masa-type dough, and cooking food pieces to form a food product. It is noted that no steeping step is included in the processes, and moreover, Hart discloses production of a masa prepared by the method that completely eliminated the step of steeping corn in a lime (calcium hydroxide solution) that result in a masa that is "equally acceptable as the masa prepared by the traditional method". Since both Scharschmidt and Hart

disclose masa-type dough product comprising non-steeped corn material and pH increasing agent (calcium hydroxide or calcium carbonate), one of the ordinary skill in the art would have been motivated to modify Scharschmidt and to substitute one pH increasing agent containing calcium cations such as calcium carbonate with another pH adjusting agent containing calcium cations such as lime (calcium hydroxide) for the same function. One of the ordinary skill in the art would have been motivated to do so, since both lime (calcium hydroxide) and calcium carbonate are well established in the art as neutralizing agents in preparation of corn masa/dough products. It would have been obvious to one of ordinary skill in the art to add calcium hydroxide to the non-steeped corn blend in order to enhance the taste of masa product, as taught by Hart.

In regard to claims 2-3, 5-6, and 8, Scharschmidt discloses providing the non-steeped corn blend, providing water, mixing the non-steeped corn blend and the water to form a dough without steeping step (Col. 6 Example III). Therefore, Scharschmidt discloses a method for making a type dough masa-and the masa-type dough as claimed.

In regard to claims 4 and 7, Scharschmidt discloses extruding and cutting dough into shapes and further cooking in boiling water (Col. 6 Example III).

Regarding claim 8, mixing of ingredients of steps (a), (b), (c) and (d) results in a masa-type dough product. See instant claims 1 and 2, which demonstrate that these steps result in the production of a masa-type dough product. Therefore the disclosed production of masa-type dough product reads upon steps (a)-(e).

Response to Arguments

Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VERA STULII whose telephone number is (571)272-3221. The examiner can normally be reached on 7:00 am-3:30 pm, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JENNIFER MCNEIL can be reached on (571)272-1540. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steve Weinstein/
Primary Examiner, Art Unit 1794

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